IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 31070 of 2006(W)

PETITIONER:

M/S.TAURUS SECURITY SERVICE,
REP. BY ITS PROPRIETOR, LT.COL.(RETD.) C.K.BABU,
TAUSUS SECURITY SERVICES, 2ND FLOOR,
IX/209, CIVIL LINE ROAD, PADAMUGAL,
THRIKKAKARA P.O., KOCHI-682 021.

BY ADV. SRI.ALEXANDER THOMAS

RESPONDENTS:

1. **DIRECTOR GENERAL OF RESETTLEMENT**
   DIRECTORATE GENERAL RESETTLEMENT (DGR)
   MINISTRY OF DEFENCE, GOVT.OF INDIA,
   WEST BLOCK-IV, RK PURAM,
   NEW DELHI-110 066.

2. **BHARATH SANCHAR NIGAM LTD. (BSNL)**
   REPRESENTED BY ITS GENERAL MANAGER
   (TELECOM), BSNL, KONNOLA TOWERS,
   MALAPPURAM-676 519.

*** ADDL.R3 IMPLEADED**

ADDL.R3: K.N.SECURITY AND ALLIED SERVICES PVT.LTD.
BUILDING NO.VIII/432-B
KUNNUMPURAM ROAD, KAKKANAD,
COCHIN - 682030, REP.BY ITS MANAGING DIRECTOR
Lt.COL.VIJAY KUMAR NAIR (RTD)

ADDITIONAL R3 IMPLEADED VIDE ORDER IN I.A.NO.14740/2006 DT.14.12.06

** ADDL.R4 IMPLEADED

ADDL.R4: ALL KERALA EX SERVICEMEN SECURITY
STAFF ASSOCIATION OF BSNL (REG.No.10.04/03)
REP.BY ITS GENERAL SECRETARY SRI.RAVEENDRAN C,
HEAD OFFICE: VALLIKUNNU - 673 314,
MALAPPURAM DISTRICT, KERALA.

ADDL.R4 IMPLEADED VIDE ORDER DATED 21.12.06 IN I.A.NO.17296/06.

BY ADV. SRI.C.S.RAMANATHAN, SC, BSNL
SRI.M.P.KRISHNAN NAIR
SRI.V.B.NARAYANAN
SRI.K.R.MICHAEL
SRI.REJI JOSEPH
SRI.MATHEW K.PHILIP, SC.
SRI.JOHN VARGHESE, ASST.SG.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: COPY OF LETTER NO.2112/SA/BSNL/EMP DT.26.4.2001 ISSUED BY GOVT.OF INDIA.

EXT.P2: COPY OF LETTER NO.F 269-2/2001-PERS IV DT.20.7.2001 ISSUED BY BSNL HEAD OFFICE.

EXT.P3: COPY OF JUDGMENT DT.28.11.2003 IN WPC 37374/2003.

EXT.P4: COPY OF PROCEEDINGS NO.2112/SA/BSNL/1091/1126/662/EMP DT.22.6.2004 OF THE 1ST RESPONDENT.

EXT.P5: COPY OF ORDER NO.MLP/SSA/TAURUS/04-05/3 DT. AT MLP THE 25.9.2004 ISSUED TO R2.

EXT.P6: COPY OF PETITIONER'S REPRESENTATION DT.1.8.2006 TO BSNL.

EXT.P7: COPY OF LETTER NO.MLP/SSA/SECURITY/VOL.IV/2005-06/26 DT.AT MLP THE 23.8.2006 ISSUED BY R2 TO R1.

EXT.P8: COPY OF LETTER NO.MLPSSA/SECURITY/VOL.IV/2005-07/44 DT. AT MLP DT 3.11.06 ISSUED TO THE PETITIONER BY R2.

EXT.P9: COPY OF PETITIONER'S REPRESENTATION DT.7.11.2006 TO BSNL.

S.SIRI JAGAN, J.

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W.P.(C).Nos.31070 & 34124 of 2006

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Dated this the 31st day of July, 2007

J U D G M E N T

The petitioner in both these writ petitions is the same. In both these writ petitions, the petitioner's agency is rendering security service to the BSNL at two places. They have already completed first two years of sponsorship by the Director General of Resettlement (DGR). The BSNL is satisfied with their performance and has recommended the petitioner for re-sponsorship for two more years. However, the DGR is not re-sponsoring the petitioner. According to the petitioner, the petitioner has not been made aware of any reasons for non-sponsoring also. The petitioner, therefore, seeks the following reliefs:

> "(a) To declare that the action of the respondents in not granting extension of allotment of work referred to in Ext.P-5 & Ext.P-8 by further two years from 1-10-2006 is illegal and improper.
>
> (b) To issue a Writ of Mandamus or any other appropriate Writ, order of direction, directing the respondents not to allot the work of security service coverage in the work sites of the 2nd respondent alloted to the Petitioner in pursuance of Ext.P-5, to any person or agency other than the Petitioner, for another 2 year period from 1-10-2006.
>
> (c) To issue a Writ of Mandamus or any other appropriate Writ, order or direction, directing the respondents to allot to the Petitioner the aforementioned work of security coverage in the work sites of the 2nd respondent alloted to the Petitioner in pursuance of Ext.P-5, for

further two year period from 1-10-2006 upto 1-10-2008."

2. The 1st respondent has filed a counter affidavit. According to the 1st respondent, the petitioner has violated the guidelines prescribed for sponsorship and that is why, the 1st respondent has refused to sponsor the petitioner for the second period of two years. According to the 1st respondent, the monitoring authority has conducted an enquiry in which the petitioner was found to have committed three irregularities which would render them ineligible for re-sponsorship. The first is that the petitioner is operating from a new location without the approval from the DGR. The second is that the petitioner's firm is operated by one Lt.Col.Ramachandran Retd. and the third is that firm has over 200 DGR sponsored guards, which is above the norms prescribed. In the counter affidavit they would add one more ground saying that contrary to the DGR instructions, the petitioner is not employing minimum of 90 per cent ex-service men. On the above grounds, the 1st respondent would support the denial of sponsorship.

3. The petitioner would point out that none of these grounds are sustainable. Regarding the first objection, he would

point out that in Ext.P4 issued by the 1st respondent himself, the petitioner's address is shown as the very same address mentioned in the report of the monitoring authority as a different location without permission and therefore there is no merit in the first objection. Regarding the second objection, the petitioner points out that the Director General of Sainik Welfare has conducted another enquiry, the report of which is produced as Ext.R1(i), in which it is categorically stated that Lt.Col.Ramachandran (Retd) is only an employee, who is doing the day to day activities in the absence of Lt.Col.K.babu, who is the proprietor of the petitioner firm. Regarding the third objection, the petitioner would point out that the 1st respondent has different contentions at different times. In Ext.R1(h) report of the monitoring authority what is stated is that the firm has over 200 DGR sponsored guards and now in the counter affidavit they take a stand that he has more than 300, which itself, the petitioner disputes. According to the petitioner, the petitioner has not employed more than 300 sponsored guards which is the limit prescribed. In respect of the last contention that the petitioner is not employing minimum 90 per cent ex-servicemen, the

petitioner submits that this is a new contention which is not supported by any documents whatsoever and he also points out that the BSNL, who is actually engaging the service of ex-servicemen through the petitioner, categorically asserts in Ext.P7 that the petitioner is engaging 90 per cent ex-servicemen.

4. I have considered the rival contentions in detail.

5. Ext.P7 is the re-sponsorship requisition by the BSNL, which reads thus:

> "1. Re-sponsorship request for M/s.Taurus Security Services, XI/209, 2nd Floor, Civil Line Road, Padamugal, Thrikkakara P.O., Kochi – 682021, agency is forwarded as contract is terminating on 30 September 2006. The agency has provided 57 guards from 01 October 2004 to 30 September 2006.
>
> 2. It is certified that:-
>
> (a) The agency is employing 90% Ex-servicemen.
>
> (b) There are no complaints pending against the agency.
>
> (c) The agency is making payment to all employees by cheque in the presence of representative of PSU/concerned organization, proof of which are submitted to our office.
>
> (d) The agency was alloted contract based on DGR sponsorship letter No.2112/SA/BSNL/1091/1126/ 662/Emp. dated 22 June 2004 (copy enclosed) No direct contract was given.
>
> (e) The agency has only completed two years of services since materialization of contract.
>
> (f) The agency has been giving satisfactory performance and is recommended for re-sponsorship."

Along with the counter affidavit the 1st respondent has filed Ext.R1(h) in which the enquiry results in respect of the

petitioner's establishment are contained in paragraph 15, which read thus:

> "15. M/S.Taurus Security Services Proprietor Lt.Col. C.K.Babu (Retd).
>
> (a) Firm now operating from new loc as under, which does not appear to have been with the approval of DGR.
>
> Peechampilly Bldg.
> 209 D, Second Floor,
> Civil Lines Road,
> Padamugal,
> Trikkara PO.
> Kochi – 682 021.
>
> (b) Though a board is displayed outside, the firm is being operated by Lt Col Ramachandran Retd from the same premises as Kerala Ex-Servicemen Securities (P) Ltd. which also appears to be operated by Lt Col Ramachandran Retd. On questioning, the above officer claims to be the GM. However, he failed to produce an appointment letter to substantiate the same. This indicates that he is running the firm and not the proprietor.
>
> (c) Documents state that the firm has over 200 DGR sponsored guards, well above the norms."

In Ext.R1(i) in serial No.6, it is stated thus:

> "Ser No.6. Lt Col. K Babu (Retd) M/S.Tarus Security Services is owned by Lt Col K Babu belong to Trichur District as well as stays there, Day to day activities is run by Lt Col Ramachandran (Retd) who is working as an Administration (sic) in charge in the absence of Lt Col K.Babu. The Operating Officer had stated that the officer working in the agency is appointed by him on salary due to his non-availability at site."

In the original statement filed by the 1st respondent before this court, which is dated 24.1.2007, what is relied on is the three reasons mentioned in Ext.R1(h) produced along with the counter affidavit which is quoted above. From Ext.P4 I am satisfied that

the first reason relied upon the 1st respondent is unsustainable because in Ext.P4 issued by the 1st respondent himself, the address given as that of the petitioner is the same as stated in the first objection. In view of the finding in Ext.R1(i), which is quoted above at Sl.No.6, the second objection also cannot be considered to be sustainable. The third objection, viz., the petitioner is employing over 200 DGR sponsored guards is also not sustainable, because admittedly the limit prescribed by the norms is 300. Regarding the contention in the counter affidavit that they are employing more than 300 guards, the same is not supported by any enquiry report as in the case of Exts.R1(h) or R1(i). Therefore, that must be an after-thought, especially in the absence of any documents to prove that the petitioner is in fact employing more than 300 sponsored guards. In view Ext.P7 recommendation for sponsorship by the BSNL, wherein it is categorically stated that the agency is employing 90 per cent ex-servicemen, the fourth objection also cannot be sustainable. That being so, none of the reasons now held out by the 1st respondent against the petitioner is sustainable.

6. The additional 3rd respondent would point out another

reason. According to him, Appendix G to the Instructions for Functioning of DGR Empanelled Ex-servicemen Security Safety and Fire Protection Management Agencies, such agencies have to file a declaration to the effect that all correspondence would be signed by the Director of the Agency, which according to the 3rd respondent, has been violated in view of Exts.P6 and P9 which are not signed by Lt Cl. K.Babu, who is the person who filed the declaration, but another man who signed as General Manager. I am not expected to take note of this since the 1st respondent has not stated it as a reason although counsel for the 1st respondent would submit that it is only an evidence which would support their contention that the petitioner has violated the prescribed norms. Further, admittedly, the 1st respondent himself has sponsored the petitioner agency to undertake security services in different stations of the BSNL. That being so, the petitioner has to to necessarily employ other employees to efficiently manage the agency at several places. The petitioner on the other hand would point out that Appendix G is intended only for Directors of private limited companies and not for proprietary concerns. Whatever that be, in so far as the 1st respondent himself has

permitted the petitioner to undertake security service in different parts of the State for which petitioner has to necessarily employ appropriate managerial staff, I do not find it to be a material irregularity warranting cancellation of sponsorship itself.

For the above reasons, I do not find any merit in the reasons mentioned by the 1st respondent for non-sponsoring the petitioner agency for further period of two years as recommended by the 2nd respondent BSNL. In any event, the major portion of the two years is already over and the balance is only a few months. That being so, I do not find any compelling reasons to deprive the petitioner of the balance period as well. In the above circumstances, the 1st respondent shall allow the petitioner to complete the balance period of the second term of two years also and if necessary the 1st respondent shall issue formal orders of re-sponsorship.

Writ petitions are disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.